



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Revising Fee Payment Agreement for 1341 East Kettleman Lane
MEETING DATE: May 5, 2010
PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution revising the Fee Payment Agreement for 1341 East Kettleman Lane.

BACKGROUND INFORMATION: The City Council, at the April 7, 2010 meeting, directed staff to prepare an amended fee payment agreement that lowered the interest rate, provided a delayed first payment, included an adjustable rate of interest, and capped the interest rate. Staffs recommendation is the Fee Payment Agreement will be revised each January 1 to reflect the LAIF rate plus one percent in effect on that date. The initial interest rate would be 1.6 percent until the first payment. Two first payment dates were discussed: July 1, 2011 and January 1, 2012. Staff is recommending January 1, 2012 be the date for the first payment. In addition, staff is recommending that the interest rate be capped at four percent (a maximum LAIF rate of three percent).

KFP Galt, LLC operates a business that generates substantial new property tax and occupancy tax revenue for the City. KFP Galt, LLC has substantiated a significant financial need in its request for consideration from the City. City staff has reviewed this request and, after consideration of the above factors, recommends the balance of the Development Impact Mitigation Fees and Wastewater Capacity Impact fees be paid per the attached amortization schedule.

Staff recommends adoption of a resolution that amends the Fee Payment Agreement to include a start date of January 1, 2012, an initial interest rate of 1.6 percent, and semi-annual payments for a 10-year period.

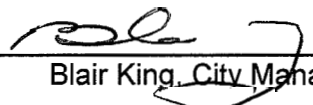
FISCAL IMPACT: Not Applicable.

FUNDING AVAILABLE: Not Applicable.


F. Wally Sangelin
Public Works Director

Prepared by Wesley K. Fujitani, Senior Civil Engineer
FWS/WKF/pmf
Attachment
cc: KFP Galt, LLC

APPROVED:


Blair King, City Manager

WHEN RECORDED, RETURN TO:

City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

REVISED FEE PAYMENT AGREEMENT

1341 E. Kettleman Lane

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and KFP GALT LLC, hereinafter referred to as "Owner".

RECITALS:

Owner is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, and described as follows:

Parcel 2, as shown on that certain parcel map filed for record March 14, 2008 in Book 24 of Parcel Maps, Page 176, San Joaquin County Records.

Owner is desirous of complying with existing City ordinances and policies regarding payment of the Wastewater Capacity Impact Fee and Development Impact Mitigation Fees as set forth in Title 13, Chapter 13.12 and Title 15, Chapter 15.64, respectively, of the Lodi Municipal Code. Owner had previously entered into a Fee Payment Agreement with the City on March 19, 2008 to cover these costs. However, Owner has requested that this Agreement be revised to reflect the current Local Agency Investment Fund (LAIF) interest rate.

Council of the City will approve the payment of the remaining fees in twenty (20) semi-annual installments on condition that the owner first enter into and execute this agreement with the City.

NOW THEREFORE, in order to insure satisfactory performance by Owner of Owner's obligations under said City Code, the parties agree as follows:

1. Owner has provided the City with three payments of TWENTY EIGHT THOUSAND FOUR AND 57/100 DOLLARS (\$28,004.57). The remaining balance due for the Development Impact Mitigation Fees and Wastewater Capacity Fees is now THREE HUNDRED SEVENTY ONE THOUSAND SIX HUNDRED EIGHTY TWO AND 92/100 DOLLARS (\$371,682.92).
2. Owner agrees to pay the balance of the Development Impact Mitigation Fees and Wastewater Capacity Impact Fee in twenty (20) semi-annual payments at an interest rate of 1.600 percent as shown on the attached Development Impact Mitigation Fee Payment Amortization Schedule Sheet (Exhibit A).
3. The first payment shall be due no later than January 1, 2012. All subsequent payments are due no later than January 1 and July 1 of each year.
4. Interest will be reset on January 1 of each year and charged at the LAIF interest rate plus one percent; the interest rate shall not exceed 4 percent.
5. Each payment shall be credited first on interest due and the remainder on principal.

6. Upon sale, transfer or any other conveyance of the property, all fees payable under this agreement shall become immediately due and payable. This agreement shall have no right of assignment.
7. If Owner fails to meet any specified payment as set forth in Item #2 through Item #4 above within fifteen (15) days following the due date, the City Manager or the City Council may serve written notice upon Owner for breach of this agreement and the default of Owner.
8. In the event of any such notice of breach, Owner shall have the duty to pay, in full, the balance of the required fees. If the Owner, within five days after the serving of notice, does not give the City written notice of its intention to pay in full the balance of the unpaid development impact mitigation fees and wastewater capacity impact fee, and does not make such payment within five days after its notice to City, this agreement shall be considered void. City shall institute legal proceedings to recover the balance of the unpaid fees and for any excess cost or damage occasioned City thereby.
9. A copy of the Agreement shall be recorded in the office of the San Joaquin County Records, P. O.Box 1968, Stockton, California 95201-1968.
10. All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

F. Wally Sandelin
Public Works Director
City of Lodi
P. O.Box 3006
Lodi, CA 95240-1910

Notices required to be given to Owner shall be addressed as follows:

KFP Galt, LLC
2552 Cottonwood Dr.
Lodi, CA 95242

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation

Dated: _____ 200s

By: _____
Blair King, City Manager

Attest: _____
Randi Johl, City Clerk

KFP GALT LLC

Dated: _____ 200s

Approved as to form: _____

D. Stephen Schwabauer
City Attorney



Dated: _____ 200s

RESOLUTION NO. 2010-54

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE
A REVISED FEE PAYMENT AGREEMENT FOR
1341 EAST KETTLEMAN LANE

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WHEREAS, a Fee Payment Agreement with KFP GALT, LLC, for Development Impact Mitigation Fees and Wastewater Capacity Impact Fees for 1341 East Kettleman Lane were approved by the Lodi City Council on March 19, 2008; and

WHEREAS, the agreement provided that the payment of fees be made in 20 equal semi-annual installments over a ten-year period with interest being charged at the March 2008 Local Agency Investment Fund (LAIF) rate plus one percent (5.801%); and

WHEREAS, in the two years since the agreement was executed, the LAIF has dropped to 0.60%, and KFP GALT, LLC has requested a revised Fee Payment Agreement using the current LAIF rate plus one percent; and

WHEREAS, the Fee Payment Agreement will be revised each January 1 to reflect the LAIF rate plus one percent in effect on that date. Staff also recommends that the interest rate on the Fee Payment Agreement be capped at 4 percent (a maximum LAIF rate of 3 percent); and

WHEREAS, staff is recommending that the first payment of this revised agreement be due on January 1, 2012, with the remaining payments being made in 20 semi-annual installments over a ten-year period.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Revised Fee Payment Agreement with KFP Galt, LLC, for Development Impact Mitigation Fees and Wastewater Capacity Impact Fees for project located at 1341 East Kettleman Lane.

Dated: May 5, 2010

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I hereby certify that Resolution No. 2010-54 was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 5, 2010, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, Mounce, and
Mayor Katzakian

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL .
City Clerk

CITY COUNCIL

PHIL KATZAKIAN, Mayor
SUSAN HITCHCOCK,
Mayor Pro Tempore
LARRY D. HANSEN
BOB JOHNSON
-----JOANNE-L. MOUNCE-----

CITY OF LODI

PUBLIC WORKS DEPARTMENT

CITY HALL, 221 WEST PINE STREET

P.O. BOX 3006

LODI, CALIFORNIA 95241-1910

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FAX (209) 333-6710

EMAIL pwdept@lodi.gov

<http://www.lodi.gov>

BLAIR KING

City Manager

RANDI JOHL

City Clerk

D. STEVEN SCHWABAUER

City Attorney

F. WALLY SANDELIN

Public Works Director

April 26, 2010

KFP Galt, LLC
2552 Cottonwood Drive
Lodi, CA 95242

SUBJECT: Adopt Resolution Revising Fee Payment Agreement for
1341 East Kettleman Lane

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, May 5, 2010. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the consent calendar and is usually not discussed unless a Council Member requests discussion. The public is given an opportunity to address items on the consent calendar at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Randi Johl, City Clerk, at 333-6702.

If you have any questions about the item itself, please call Wes Fujitani, Senior Civil Engineer, at 333-6800, extension 2669.



for : F. Wally Sandelin
Public Works Director

FWS/pmf

Enclosure

cc: City Clerk